

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STEVEN J. BARILLA,

Plaintiff,

v.

JO ANNE B. BARNHART,

Defendant.

No. C03-0795MJP

ORDER DENYING AMENDMENT  
OF THE COURT'S JUDGMENT

This matter comes before the Court on Defendant's Motion to Alter or Amend Judgment. (Dkt. No. 25). Defendant seeks relief from an Order that this Court entered on August 4, 2005 (Dkt. No. 24) granting \$9202.25 in net attorney's fees to attorney Elie Halpern. When the Court made that ruling, it had considered and rejected Defendant's argument that the gross attorney's fees of \$14,502.25 should be reduced by both the \$5,300.00 in EAJA fees that were received for work at the administrative level under 42 U.S.C. §406(a) and by the \$3,679.20 that Plaintiff's attorney had already received for his work at the Court level under 42 U.S.C. §406(b). Defendant argued that Plaintiff's attorney's fees for both the administrative and court work that attorney Halpern did could not exceed 25% of the total back award to Plaintiff. However, both section 406(a) and 406(b) provide separately for an award of up to 25% of the amount of the back award. 42 U.S.C. §406.


The Order signed by the Court, which was a proposed order prepared by Plaintiff, states that the net award to attorney Halpern should be \$14,502.25, reduced by the EAJA fee of \$3,679.20 that had already been received pursuant to §406(b). In the Court's Order, it stated that the net amount

1 should therefore be \$9,202.25. This total reflects a mathematical error. The total of \$14,502.25  
2 minus \$3,679.20 equals \$10,823.05. However, Plaintiff's attorney has never asked for more than  
3 \$9202.25, even in his Response to Defendant's Motion to Amend, which points out this error. (Dkt.  
4 No. 26).

5 The Court concludes that \$9,202.25 is a reasonable fee for the services performed by attorney  
6 Halpern. For this reason, the Court's previous Order stands and Defendant's Motion to Amend is  
7 DENIED.

8 The Clerk of the Court shall direct a copy of this order be sent to all counsel of record.

9 Dated: September 9<sup>th</sup> , 2005.

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11 Marsha J. Pechman  
12 United States District Judge  
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